

REMARKS

In response to the Final action mailed October 20, 2005, Applicant respectfully requests reconsideration in view of the following remarks.

Claims 1-20 are pending. The specification has been amended to correct an informality. No new matter has been added. No claims are amended in the present response, however, Applicant has provided a listing of the pending claims for the Examiner's convenience.

I. The § 103 Rejections

Claims 1 and 6-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,526,575 ("McCoy") in view of U.S. Patent No. 5,920,700 ("Gordon").

Claims 2-3 and 9-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McCoy and Gordon, in further view of U.S. Patent No. 6,253,079 ("Valentine").

Claims 4-5, 17-18 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McCoy and Gordon, in further view of U.S. Patent No. 5,892,535 ("Allen").

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over McCoy and Gordon, in further view of Gordon and Valentine.

Applicant respectfully traverses the rejections.

Claim 1 recites a digital media distributor (DMD) with tunable control of digital media data transmission. The digital media distributor (DMD) includes a central site system utilizing a plurality of designated control parameters as tunable limits, including uplink parameters, scheduler parameters, and storage parameters, for controlling distribution of digital media data; and includes a plurality of remote site servers for receiving digital media data transmissions from the central site server via a distribution network according to the designated control parameters.

A potential advantage of such a system is that a user is operable to tune digital media data transmission from a central site to a plurality of remote sites by designating parameters such as uplink parameters, scheduler parameters, and storage parameters (e.g., through a graphical user interface (GUT) to more optimally manage the digital media data transmission (see specification, page 3, lines 5-11; page 8, lines 15-22).

A. McCoy Fails To Disclose a Central Site System Utilizing a Plurality of Designated Control Parameters as a Tunable Limits Including Storage Parameters For Controlling Distribution of Digital Media Data

McCoy discloses a multimedia distribution and broadcast system for transmitting multimedia contents and control information from a central uplink facility to a remote downlink via a satellite (see Abstract). In particular, the multimedia contents include video, audio, text, and other multimedia elements; and, the control information includes a television program's title, telecast time, program description, theme, channel, broadcasting format, or information about a particular remote downlink facility (col. 4, ll. 34-47). The Examiner recognizes that McCoy fails to disclose a central site system utilizing a plurality of designated control parameters (including storage parameters) as tunable limits. The Examiner, however, asserts that these limitations absent from McCoy are disclosed by Gordon.

B. Gordon Fails To Disclose a Central Site System Utilizing a Plurality of Designated Control Parameters as a Tunable Limits Including Storage Parameters For Controlling Distribution of Digital Media Data

Gordon discloses an asset management system for managing the addition and deletion of media assets in a network (see Abstract). The asset management system includes a storage

resource manager 102 that manages traffic within the asset management system (col. 5, ll. 24-26; FIG. 3). More specifically, the storage resource manager 102 obtains disk topology information from a storage topology register and computes the available storage space on each device. Based on the computed storage space on each device (and other criteria), the storage resource manager 102 determines whether to copy an asset to particular location or delete an asset from a particular storage device (col. 5, ll. 44-61).

While Gordon discloses computing available storage space on each device, such computed storage space information is not a "designated control parameter" (emphasis added). Rather the computed storage information is a by-product (or result) of operation of the asset management system, and is not a designated control parameter – e.g., the parameter is not designated (selected, assigned, or pre-determined) by a user or a computer system. In contrast, claim 1 requires a central site system utilizing a plurality of designated control parameters (including storage parameters) as tunable limits. As discussed above, a user using Applicant's invention is operable to tune digital media data transmission from a central site to a plurality of remote sites by designating parameters such as uplink parameters, scheduler parameters, and storage parameters (e.g., through a graphical user interface (GUI)) to more optimally manage the digital media data transmission.

Gordon, therefore, fails to disclose a central site system utilizing a plurality of designated control parameters (including storage parameters) as tunable limits.

C. The claim has limitations not taught by either reference

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Both McCoy and Gordon fail to disclose a central site system utilizing a plurality of designated control parameters (including storage parameters) as tunable limits. Consequently, the combination of McCoy and Gordon cannot render claim 1 obvious, and the Examiner has not made a *prima facie* showing of obviousness.

D. No Motivation To Combine References

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. However, prior art references must be considered in their entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983). Applicant respectfully submits that McCoy teaches away from being combined with Gordon.

Assuming, *arguendo*, that Gordon discloses a central uplink facility that utilizes a plurality of designated control parameters (including storage parameters) as tunable limits for controlling distribution of digital media data (which Applicant does not concede), McCoy teaches away from a central facility utilizing designated storage parameters with respect to received data transmissions. Rather, McCoy teaches that a primary function of a downlink facility is to select only relevant and necessary portions of transmitted data, and to discard the rest (col. 5, ll. 12-20). Consequently, within McCoy's multimedia distribution and broadcast system, the downlink facilities determine the storage associated with data transmissions and not the central uplink facility. Based on these portions of McCoy, Applicant respectfully submits that McCoy, therefore, teaches away from being combined with Gordon.

E. Other Independent Claims

Claims 8, 17 and 18 each incorporates limitations similar to those of claim 1. Claims 8, 17 and 18 (and the claims that depend therefrom) are also allowable over the combination of McCoy and Gordon for reasons corresponding to those set forth with respect to claim 1.

In view of the foregoing, Applicant submits that claims 1-20 are allowable over the cited references, and are in condition for allowance. Should any unresolved issues remain, the Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,
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Date